IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 479 OF 2005

Abdulwafa Abubakhar Khan & Anr ...Appellants

Versus

The State of Maharashtra ...Respondent

.....

Mr. M.H. Bandrekar, Advocate for Appellants

Mr. Y.S. Shinde, A.P.P. for State.

.....

CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 10TH JUNE, 2005

P. C.:-

1. Heard the learned advocate for the appellants and the learned A.P.P. for the State.

2. The appellants i.e. original accused Nos. 1 and 2 have filed this appeal challenging the judgment and order dated 21.3.2005 passed by the 8th Ad-hoc Additional Sessions Judge, Greater Bombay at Sewree. By the said judgment and order both the appellants have been convicted under Section 392 r.w. Section 34 of I.P.C. and sentenced to R.I. for three years each and to pay fine of Rs.500/- each i/d to suffer R.I. for one month.

3. The learned advocate for the appellants states

that he does not wish to argue this matter as far as the merits of the matter are concerned and he will restrict his submission only to the period of sentence imposed onthe appellants. He has further submitted that the sentence imposed on the accused is only three years and the appellant No.2 has been in custody since the date of arrest i.e. more than two and half years. Thus he has submitted that he is making submission in the present appeal only in respect of sentence. As the learned advocate for the appellants has restricted his submission only to the quantum of sentence, by consent of both sides, this appeal is disposed of at the admission stage itself.

4. The appellants are involved in a robbery of cash of Rs.4080/-. Thus, it is seen that total value of the property involved is only Rs.4080/-. As far as the appellant No.2 is concerned, he has undergone more than two and half years of imprisonment. As far as the appellant No.1 is concerned he had been granted bail by the lower court and hence he was in custody for about a year. However, as far as the appellant No.1 is concerned he is a young boy of 20 years. The learned advocate for the appellants has submitted that there are no antecedent as far as these appellants are concerned. This statement has not been controverted by the prosecution.

5. Thus, in this view of the matter, I am inclined to reduce the sentence of imprisonment of both the appellants to the period undergone by them. Fine amount of Rs.500/- has been imposed on both the appellants. The learned advocate for the appellants states that the said fine amount has been paid by both the appellants. The fine amount of Rs.500/- imposed on the appellant No.2 is maintained. However, the fine amount of Rs.500/- in respect of the appellant No.1 is increased to Rs.5000/-.

6. In the result, the conviction of the appellants under Section 392 r.w. Section 34 of I.P.C. is confirmed. The sentence of imprisonment of both the appellants is reduced to the period undergone by them. The appellant No.2 be released forthwith if not required in any other case. The appellant No.1 if not required in any other case, be released on making payment of differential fine amount of Rs.4,500/-.

7. Criminal appeal is partly allowed.

*****

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3194 OF 2005
IN
CRIMINAL APPEAL NO. 479 OF 2005

Abdulwafa Abubakhar Khan & Anr ...Applicants

Versus

The State of Maharashtra ...Respondent

.....

Mr. M.H. Bandrekar, Advocate for Applicants

Mr. Y.S. Shinde, A.P.P. for State.

.....

CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 10TH JUNE, 2005

P. C.:-

. The learned advocate for the applicants seeks permission to withdraw this application. Permission granted. The application is allowed to be withdrawn and disposed of as such.

*****